

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 17, 2002
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING	2
ATTENDANCE DURING THE MEETING	2
ITEM-300: ROLL CALL	3
NON-AGENDA COMMENT	3
COUNCIL COMMENT	5
CITY ATTORNEY COMMENT	8
CITY MANAGER COMMENT	8
ITEM-30: Approval of Council Minutes	8
ITEM-330: Nextel Murray Ridge	9
ITEM-331: Reinstatement of Red Light Photo Enforcement Program, Renegotiate Contract with Vendor	12
NON-DOCKET ITEMS	14
ADJOURNMENT	14

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:06 a.m. Mayor Murphy recessed the meeting at 10:58 a.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 11:05 a.m. with Council Member Maienschein not present. Mayor Murphy recessed the meeting at 11:54 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:02 p.m. with Council Member Maienschein not present. The meeting was recessed by Mayor Murphy at 4:24 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:28 p.m. with Council Member Maienschein not present. Mayor Murphy adjourned the meeting at 5:04 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
 - (1) Council Member Peters-present
 - (2) Council Member Wear-present
 - (3) Council Member Atkins-present
 - (4) Council Member Stevens-present
 - (5) Council Member Maienschein-Excused by Resolution R-297143
(No reason given)
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Inzunza-present
- Clerk-Fishkin (mc/ek)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Fishkin called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Wear-present
- (3) Council Member Atkins-present
- (4) Council Member Stevens-present
- (5) Council Member Maienschein-not present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Comment by Don Stillwell regarding the Zoological Society of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A039-072.)

PUBLIC COMMENT-2: **REFERRED TO CITY MANAGER**

Comment by Noel Neudeck regarding the City of San Diego Website being in direct violation of a mandate within the Americans Disabilities Act of 1990 because it is not readable to totally blind people.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A073-101.)

PUBLIC COMMENT-3:

Comment by Jarvis Ross regarding threats made by corporate entities to leave town if they do not get something from the taxpayers of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A102-141.)

PUBLIC COMMENT-4: **REFERRED TO CITY MANAGER**

Comment by Joyceline Tarr regarding her request that the palm trees on her street be trimmed.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A142-174.)

PUBLIC COMMENT-5:

Comment by Steve McWilliams regarding medicinal cannabis.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A175-218.)

PUBLIC COMMENT-6:

Comment by David Brown regarding police brutality.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A219-261.)

PUBLIC COMMENT-7:

Comment by Bradley Walker regarding his arrest last year.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A262-309.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Comment by Council Member Atkins regarding the following: 1) Congratulating City Attorney Casey Gwinn for celebrating his birthday on September 7th and Council Member Wear for celebrating his birthday on September 12th; 2) The allocation of \$6 million by the Governor, for Balboa Park's deferred maintenance needs; 3) Correct a statement she made last week stating that the PS&NS Committee will be taking up the ordinances regarding medicinal marijuana and the Identification Program on October 16th instead of the 25th; 4) An article in last week's paper about the City not getting an allocation of \$200,000 from the State for our Inclement Homeless Shelter that begins December 15th.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A310-426.)

COUNCIL COMMENT-2:

Comment by Council Member Frye stating that 1) This Saturday, September 21st, Serra Mesa is holding their Community Fair at the Serra Mesa Recreation Center; 2) That this weekend, to celebrate the past opening of the Mission Valley Branch Library, Barnes and Noble Bookstore in Hazard Center held a fundraiser for the benefit of the Friends of the Mission Valley Library; 3) Getting the San Diego River back to its natural state.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A427-481.)

COUNCIL COMMENT-3:

Comment by Mayor Murphy stating that many people have been working on restoring the San Diego River all the way from Atwaters in Julian to the Pacific Ocean.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A482-518.)

COUNCIL COMMENT-4: **REFERRED JEWISH HOLIDAY ISSUE TO THE RULES
COMMITTEE CONSULTANT**

Council Member Peters commented on the following: 1) Congratulated Council Member Maienschein on the birth of his daughter; 2) Announced that this weekend they opened the Cogan Aquatic Center at La Jolla High School; 3) That he coached the third game ever played in the new field at La Jolla Elementary School; 4) That they spent time beautifying and cleaning up Canyonside Park in Penasquitos; 5) Began a Tree-Planting Program on Governor Drive;

6) This coming weekend the California Coastal cleanup will take place throughout the state on September 21st; 7) Tomorrow he will be hosting the California Commission on Tax Policy in the New Economy in Chambers; 8) Request that Council consider not scheduling meetings on the Jewish Holidays of Yom Kippur and Rosh Hashanah.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A519-615.)

COUNCIL COMMENT-5:

Comment by Council Member Madaffer on the following: 1) Congratulating Council Member Maienschein on the birth of his daughter; 2) The Governor coming down and delivering \$18 million toward the River Park; and 3) The Citizens Against Lawsuit Abuse proclamation.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A616-B079.)

COUNCIL COMMENT-6:

Mayor Murphy announced that September is the National Sign up Month to get your library card at your local library.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B080-085.)

COUNCIL COMMENT-7:

Comment by Council Member Atkins thanking the Chief of Staff to the Governor Lynn Shank and former Assemblyman and Council Member Mike Gotch, for their past service in getting the monies for Balboa Park and the River Park.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B086-095.)

CITY ATTORNEY COMMENT:

City Attorney Devaney announced that Council Member Atkins has challenged the City Attorney's office to put together a Team for Aids Walk San Diego on October 6, 2002 at 6th Avenue and Quince.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B110-118.)

CITY MANAGER COMMENT:

City Manager Uberuaga commented on the concerns of Mr. Brown and Mr. Walker regarding the Police Department, and informed the public that there is a Police Citizens Review Board that will be meeting on September 24th and he will be sending a letter to both of them indicating the process to file public complaints with the Board. He also commented on the Van Dam case and thanked the Police Department employees for their excellent professional job to see that justice is done.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B096-109.)

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

**Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, September 17, 2002**

Page 9

08/06/2002 (To re-adopt with Councilmember Inzunza's amendment to his motion for Item 330)
08/12/2002 Adjourned
08/13/2002 Adjourned
08/19/2002 Adjourned
08/20/2002 Adjourned
08/26/2002 Adjourned
08/27/2002 Adjourned
09/02/2002 Adjourned

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: B120-125.)

MOTION BY ATKINS TO APPROVE. Second by Peters. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-330: Nextel Murray Ridge.

Matter of the appeal by Brian P. Welch and Robert D. Sisemore of the decision by the Planning Commission in approving an application for an existing wireless telecommunications facility disguised as a 35 foot high palm tree and its associated 200 square-foot equipment shelter and landscape situated in the parking lot of the International Church of the Foursquare Gospel Church located at 2285 Murray Ridge Road in the Serra Mesa Community.

(See City Manager's Report CMR No. 02-199. Serra Mesa Community Plan Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in Subitem A to deny the appeal and grant the permit; and adopt the resolution in Subitem B:

Subitem-A: (R-2003-) APPROVED APPEAL/DENIED PROJECT, ITEM
CONTINUED TO TUESDAY, OCTOBER 8, 2002, SO
THAT THE FINDINGS CAN BE BROUGHT BACK TO
COUNCIL FOR ADOPTION

Adopt the Resolution granting or denying the appeal and granting or denying the
Conditional Use Permit/Planned Development Permit No. 94-0330-87, with
appropriate findings to support Council action.

Subitem-B: (R-2003-) CONTINUED TO TUESDAY, OCTOBER 8, 2002, SO
THAT THE FINDINGS CAN BE BROUGHT BACK TO
COUNCIL FOR ADOPTION

Adoption of a Resolution certifying that the information contained in the Negative
Declaration No. LDR-94-0330-87 has been completed in compliance with the
California Environmental Quality Act of 1970 (California Public Resources Code
Section 21000 et seq.) as amended, and the State guidelines thereto (California
Administrative Code Section 15000 et seq.) that the report reflects the
independent judgement of the City of San Diego as Lead Agency and that the
information contained in said report, together with any comments received during
the public review process, has been reviewed and considered by this Council in
connection with the approval of the land use actions for the Nextel Murray Ridge;

That the Planning Commission finds, based upon the Initial Study and any
comments received, that there is no substantial evidence that the project will have
a significant effect on the environment and therefore, that said Negative
Declaration is hereby approved.

OTHER RECOMMENDATIONS:

Planning Commission on May 16, 2002 voted 5-1 to approve; was opposition.

Ayes: Lettieri, Brown, Garcia, Schultz, Steele

Nays: Chase

Not present: Anderson

The Serra Mesa Community Planning Group has recommended denial of this project.

CITY MANAGER SUPPORTING INFORMATION:

The Nextel-Murray Ridge project is an existing wireless communication facility consisting of a 35-foot high faux palm tree supporting twelve panel antennas and an approximate 200-square foot equipment shelter and trash enclosure. The facility is located at 2285 Murray Ridge Road on the perimeter of the church parking lot in the southwestern portion of the property overlooking Interstate-805 in the Serra Mesa Community Plan area.

FISCAL IMPACT: All costs associated with the processing of this application have been paid for by the applicant.

LEGAL DESCRIPTION:

The site is located at 2285 Murray Ridge Road, in the Serra Mesa Community Plan area and is more particularly described as parcel "B" of the Princess Park Estates, Unit No. 7, Map No. 4621.

FILE LOCATION: SUBITEMS A&B: LUP-Nextel Murray Ridge 9/17/02 (65)

COUNCIL ACTION: (Tape location: B126-C209.)

Hearing began at 10:57 a.m. and halted at 11:52 a.m.

Testimony in opposition by Robert Sisemore, Brian Welch, James Sperbeck, Tessie Welch, and Jarvis Ross.

Testimony in favor by Debra Defratti.

MOTION BY FRYE TO APPROVE THE APPEAL OF THE DECISION OF THE PLANNING COMMISSION REGARDING THE CONDITIONAL USE AND PLANNED DEVELOPMENT PERMITS FOR THE NEXTEL WIRELESS AND TO CONTINUE THE ITEM TO TUESDAY, OCTOBER 8, 2002, SO THAT THE FINDINGS CAN BE BROUGHT BACK TO COUNCIL TO BE ADOPTED. Second by Atkins. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-331: Reinstatement of Red Light Photo Enforcement Program, Renegotiate Contract with Vendor.

(See City Manager Report CMR-02-203.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-345) ADOPTED AS AMENDED AS RESOLUTION R-297074

Reinstating the San Diego's Red Light Photo Enforcement Program and the recommendations be implemented with a public awareness campaign on the program and biannual reports on the program to the Public Safety and Neighborhood Services Committee;

Directing the City Manager to renegotiate the contract with the current vendor, Affiliated Computer Services (ACS), so the current fee arrangement is restructured to eliminate any perceived conflict of interest, and that the final negotiated agreement and contract is brought back before Council for review and approval.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: C210-240; D006-H059.)

MOTION BY MADAFFER TO ADOPT THE RESOLUTION AS AMENDED TO APPROVE THE CITY MANAGER'S REPORT TO REINSTATE THE RED-LIGHT PHOTO ENFORCEMENT PROGRAM BUT SUBJECT TO THE MANAGER FIRST RETURNING TO CITY COUNCIL AT THE TIME THEY HAVE A PROPOSED CONTRACT, WITH CLARIFYING DETAIL ON THE FOLLOWING THREE POINTS:

1. A REASONABLE SOLUTION TO THE YELLOW LIGHT TIMING ISSUE. THE MANAGER HAS OFFERED 3.4 SECONDS, COUNCIL MEMBER MADAFFER SUGGESTS AN ACROSS-THE-BOARD MINIMUM OF 4.0 SECONDS. THIS MOTION WOULD DIRECT THE MANAGER TO WORK WITH TRAFFIC ENGINEERS AND RETURN WITH A REASONABLE COMPROMISE BETWEEN THE 3.4 SECONDS AND 4.0 SECONDS PER YELLOW LIGHT TIMING WITH

DIRECTION TO USE THESE OTHER METRICS AS WELL, WHICH ARE BEING USED FEDERALLY, JUST AS IN CALIFORNIA.

2. PRIOR TO THE INSTALLATION OF ANY NEW CAMERA INSTALLATIONS AND SUBJECT TO THE CRITERIA AS OUTLINED IN THE MANAGER'S REPORT, THAT THE MANAGER WOULD POST ON THE CITY'S WEBSITE FOR A PERIOD OF NO LESS THAN 30 DAYS, A LIST OF THE PROPOSED CAMERA INSTALLATIONS, GIVING THE PUBLIC AN OPPORTUNITY TO COMMENT.

3. WITH RESPECT TO VENDOR ACCESS TO DMV RECORDS, ESTABLISH DURING CONTRACT NEGOTIATIONS THAT IN ADDITION TO THE PENALTIES AS SUGGESTED IN THE MANAGER'S REPORT, INCLUDING EMPLOYEE TERMINATION, A SEVERE FINANCIAL PENALTY CLAUSE THAT WOULD BE SANCTIONED BY THE CITY AGAINST THE CONTRACTOR FOR ANY BREACHES UNDER THIS PORTION OF THE CONTRACT.

ACCEPT MAYOR MURPHY'S SUGGESTION TO USE THE PHRASE "APPROVE THE CITY MANAGER'S REPORT" IN PLACE OF "ACCEPT THE CITY MANAGER'S REPORT" IN COUNCIL MEMBER MADAFFER'S MOTION.

ACCEPT COUNCIL MEMBER ATKINS' SUGGESTION TO PROVIDE A MECHANISM TO INCLUDE COMMUNITY INPUT AND CONCERN ON CRITERIA FOR THE ESTABLISHMENT OF PHOTO ENFORCEMENT SITES. DIRECT THAT ASSURANCES BE IN PLACE THAT CONTRACT INFORMATION WILL BE CONFIDENTIAL AND NOT SHARED, GIVEN OR SOLD TO ANY PARTIES WITHIN OR OUTSIDE THE CORPORATION. REQUEST THAT ANY ADDITIONAL REVENUES FROM THE PROGRAM SHOULD GO TO TRAFFIC, PUBLIC SAFETY AND TO ANY FURTHER COSTS OF THE PROJECT, AND ALSO THAT THERE BE AN ACCOUNTING AND ANALYSIS OF COSTS VERSUS REVENUE ON AN ONGOING BASIS; THIS IS TO INCLUDE COMMUNITY INPUT.

ACCEPT COUNCIL MEMBER FRYE'S REQUEST TO ESTABLISH WRITTEN GUIDELINES FOR CRITERIA AND PROCEDURES TO ENSURE THE RIGOROUS OVERSIGHT OF THE VENDOR, WHICH WOULD INCLUDE THE RECOMMENDATIONS INCLUDED IN THE POWERPOINT PRESENTATION. COUNCIL MEMBER FRYE ALSO REQUESTED THAT A TRAFFIC ENGINEERING STUDY BE CONDUCTED IN CONNECTION WITH THE ITEM COMING BACK AT THE CONTRACT LEVEL.

Second by Wear. Passed by the following vote: Peters-yea, Wear-yea, Atkins-yea, Stevens-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:04 p.m. in honor of the memory of:

Neil Rossi; James Wyatt Killion, Patricia Killion and Ryan Wyatt Killion as requested by Council Member Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: H060-064).